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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

KIP O'CONNOR et al,
Plaintiffs,
v.
CLACKAMAS COUNTY et al,
Defendants.

Case No. CV 11-1297 SI

**MOTION TO DISMISS PURSUANT TO
FED.R.CIV.P. 12(b)(6) AND THE
OREGON TORT CLAIMS ACT FILED
ON BEHALF OF CLACKAMAS
COUNTY, MICHAEL MCCALLISTER,
GARY HEWITT, STEVE HANSCHKA,
AND KIM BENTHIN**

Request for Oral Argument

**MOTION TO DISMISS PURSUANT TO FED.R.CIV.P. 12(b)(6) AND THE
OREGON TORT CLAIMS ACT FILED ON BEHALF OF CLACKAMAS
COUNTY, MICHAEL MCCALLISTER, GARY HEWITT, STEVE HANSCHKA,
AND KIM BENTHIN**

Request for Oral Argument

CERTIFICATE OF COMPLIANCE WITH L.R.7-1(a)

Alexander Gordon, Counsel for Clackamas County, Michael McCallister, Steve Hanschka, Gary Hewitt, and Kim Benthin, Defendants herein, informs the Court that he has spoken with Mark E. Griffin, counsel for the Plaintiffs, regarding the possibility of the Plaintiffs voluntarily dismissing their Complaint with prejudice. The Plaintiffs are unwilling to do so.

MOTION

COME NOW Clackamas County, Michael McCallister, Steve Hanschka, Gary Hewitt, and Kim Benthin, Defendants in the above Complaint and, within the time provided by law, file this Motion to Dismiss the Plaintiffs' claims against them, pursuant to the authority of Fed.R.Civ.P. 12(b)(6) and the Oregon Tort Claims Act.

On occasion, Michael McCallister, Steve Hanschka, Gary Hewitt, and Kim Benthin, are, collectively referred to as the individual County Defendants. This Motion is based on the pleadings on file and, as required by LR 7-1 (c), a supporting Memorandum of Law filed contemporaneously with this Motion.

Respectfully submitted this 24th day of January, 2012.

CLACKAMAS COUNTY COUNSEL

Stephen L. Madkour, OSB # 941091
County Counsel, Clackamas County, Oregon
Scott C. Ciecko, OSB No. 045587

/s/ Alexander Gordon
Alexander Gordon, OSB No. 822671
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OF ATTORNEYS FOR DEFENDANT CLACKAMAS COUNTY
AND THE INDIVIDUAL COUNTY DEFENDANTS.

CLACKAMAS COUNTY COUNSEL
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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing MOTION TO DISMISS PURSUANT TO FED.R.CIV.P. 12(b)(6) AND THE OREGON TORT CLAIMS ACT FILED ON BEHALF OF CLACKAMAS COUNTY, STEVE HANSCHKA, MICHAEL MCCALLISTER, KIM BENTHIN, AND GARY HEWITT on:

Mark E. Griffin
Griffin & McCandlish
1631 NE Broadway, #721
Portland, Oregon 97232

and

Daniel J. Rohlf
Pacific Environmental Advocacy Center
10015 SW Terwilliger Blvd.
Portland, Oregon 97219-7768

by **MAILING** a full, true and correct copy thereof in a sealed, postage-paid envelope, addressed as shown above, and deposited with the U.S. Postal Service at Portland, Oregon, on the date set forth below;

by causing a full, true and correct copy thereof to be **HAND-DELIVERED** to the party the date set forth below;

by **EMAILING** a full, true and correct copy thereof to the party, at the email address shown above, which is the last-known email address for the party's office, on the date set forth below.

by **FAXING** a full, true and correct copy thereof to the party, at the fax number shown above, which is the last-known fax number for the party's office, on the date set forth below.

Dated this 24th day of January, 2012.

CLACKAMAS COUNTY COUNSEL

/s/ Anja Mundy
Anja Mundy, Legal Assistant

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